

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:15-cv-275-RJC-DCK**

THOMASINA GEAN,

Plaintiff,

v.

CHARLOTTE MECKLENBURG SCHOOLS,

Defendant.

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ORDER

THIS MATTER comes before the Court on Defendant Charlotte Mecklenburg School’s (“Defendant”) Second Motion to Dismiss, (Doc. No. 23); the Magistrate Judge’s Memorandum and Recommendation and Order (“MR&O”), (Doc. No. 40); and Plaintiff Thomasina Gean’s (“Plaintiff”) timely filed objection to the MR&O, (Doc. No. 42). The Magistrate Judge’s MR&O recommended that Defendant’s Motion be denied without prejudice to refile. (Doc. No. 40 at 8). Consistent with that recommendation, the Magistrate Judge also ordered, among other things, Plaintiff to file an amended complaint. (Id.). Since the Magistrate Judge’s MR&O, Plaintiff has timely filed an amended complaint, (Doc. No. 41); Defendant has filed its Third Motion to Dismiss, (Doc. No. 43), largely resembling its Second Motion to Dismiss; Plaintiff has submitted a response in opposition to Plaintiff’s Third Motion to Dismiss, (Doc. No. 45); and Defendant has notified the Court of its intent not to file a reply in support of its Third Motion to Dismiss, (Doc. No. 45). Defendant’s Third Motion to Dismiss is ripe and has been referred to Magistrate Judge Keesler for review and issuance of another M&R.

It is well settled that a timely-filed amended pleading supersedes the original pleading, and that motions directed at superseded pleadings must be dismissed as moot. Young v. City of Mount Ranier, 238 F.3d 567, 573 (4th Cir. 2001) (“The general rule . . . is that an amended

pleading supersedes the original pleading, rendering the original pleading of no effect.”); see also Collin v. Marconi Commerce Sys. Employees’ Ret. Plan, 335 F. Supp. 2d 590, 614 (M.D.N.C. 2004) (“Earlier motions made by Defendants were filed prior to and have been rendered moot by Plaintiff’s filing of the Second Amended Complaint”); Turner v. Kight, 192 F. Supp. 2d 391, 397 (D. Md. 2002) (denying as moot motion to dismiss original complaint on grounds that amended complaint superseded original complaint). Because Plaintiff timely filed an amended complaint per the Court’s instruction and Defendant filed its Third Motion to Dismiss in response, the Defendant’s Second Motion to Dismiss, (Doc. No. 23), the recommendation portion of the Magistrate Judge’s MR&O, (Doc. No. 40), and Plaintiff’s Objection to the MR&O will be dismissed as moot, (Doc. No. 42).

IT IS, THEREFORE, ORDERED that:

1. Defendant’s Second Motion to Dismiss, (Doc. No. 23), is **DISMISSED as moot**;
2. The recommendation portion of the Magistrate Judge’s MR&O, (Doc. No. 40), is **DISMISSED as moot**. The Order portion of the MR&O retains its full effect; and
3. Plaintiff’s Objection to the Magistrate Judge’s MR&O, (Doc. No. 42), is **DISMISSED as moot**.

Signed: December 19, 2016



Robert J. Conrad, Jr.
United States District Judge

